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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92056509
Party	Plaintiff Autodesk, Inc.
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Attachments	Autodesk Reply ISO MTC.pdf(567258 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AUTODESK, INC.,	)	
	)	
Petitioner,	)	
	)	Cancellation No. 92056509
v.	)	
	)	
3D SYSTEMS, INC.,	)	
	)	
Respondent.	)	
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**PETITIONER’S REPLY IN SUPPORT OF MOTION TO COMPEL**

Autodesk, Inc. (“Petitioner”) respectfully submits this reply in further support of its Motion to Compel Discovery (“Motion”).

**INTRODUCTION**

Nothing in Respondent 3D Systems, Inc.’s (“Respondent”) Opposition explains why it should be allowed to evade fundamental discovery obligations in this case. Petitioner needs a meaningful document production, complete interrogatory responses, and a proper privilege log from Respondent before Petitioner can proceed with depositions and prepare for trial. These are not controversial or exceptional requests. At every turn, however, Respondent has made clear that it will not change its position and provide the highly relevant information and documents requested by Petitioner. The arguments in Respondent’s Opposition are wholly misdirected and only further demonstrate why the Motion should be granted.

*First*, the Opposition attempts to misdirect the Board’s attention to Respondent’s version of form over substance. In particular, Respondent accuses Petitioner of “gamesmanship” and of being dilatory in pursuing its Motion. Yet, at the same time, the Opposition tacitly acknowledges that Respondent intends to file its own discovery motion, and Respondent does not (and cannot) deny that the parties have engaged in repeated and extremely detailed meet-and-confer efforts. As explained below, such efforts made it abundantly clear that certain important issues would not be resolved. Going through infinite futile meet-and-confer efforts, once a respondent has entrenched its position, is neither required nor productive. No party is required to meet and confer indefinitely, and there is nothing improper or

untimely as to the Motion, which was filed 3 weeks before the discovery cut-off.<sup>1</sup> See 37 C.F.R. § 2.120(e)(1) (under the Trademark Rules, motion to compel is appropriate where movant has made “a good faith effort, by conference or correspondence, to resolve . . . the issues presented in the motion but the parties were unable to resolve their differences”); see, e.g., *Bristol-Myers Squibb Co. v. Rhone-Poulenc Rorer, Inc.*, 45 USPQ2d 1775, 1778 (S.D.N.Y. 1998) (meet-and-confer obligations satisfied where party refuses to reconsider its position; movant is justified in “concluding that it would be futile and a waste of time and resources to ‘meet and confer’ further”).

*Second*, Respondent does not dispute that it has refused (and continues to refuse) to produce a wide swath of responsive documents relating to its use of “3DS.” These documents are relevant to the likelihood of confusion analysis and, in particular, to various defenses on which Respondent is now relying. Moreover, Respondent has sought such information in its own discovery propounded on Petitioner and has refused to limit its defenses to the specific mark in the disputed registration.<sup>2</sup> Respondent’s position is unfounded and inequitable.

*Third*, with respect to the insufficiency of its document collection and production, Respondent notably *does not* contend in its Opposition that it conducted a thorough search or collection of its records for responsive documents. Nor does Respondent dispute that its production appears largely attorney-generated (as opposed to reflecting meaningful collection efforts within and by Respondent itself).

*Finally*, Respondent’s arguments with respect to other disputed issues, for example the business and marketing plans sought by Petitioner as part of the discovery process, again illustrate the necessity of this Motion. Respondent’s justification for refusing to produce such documents and information essentially boils down to the fact that it would simply prefer not to do so, and a unilateral, unsupported, and misplaced notion that such information is not relevant to the claims or defenses in this proceeding.

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<sup>1</sup> TBMP § 523.03 plainly states that a motion to compel need only be filed prior to the close of the discovery period.

<sup>2</sup> Indeed, Respondent cannot and does not deny that it stated during the meet-and-confer process that it would not agree to limit its affirmative case to the mark that is the subject of the registration. In its Opposition, Respondent attacks Petitioner’s citation to the June 18, 2014 letter summarizing the meet-and-confer, but does not deny that it intends to rely on its other 3DS marks as part of its affirmative case.

## ARGUMENT

### **I. PETITIONER'S MEET-AND-CONFER EFFORTS WERE MORE THAN SUFFICIENT**

Respondent simply mischaracterizes the parties' meet-and-confer efforts. As detailed below, any argument that they were inadequate does not withstand serious scrutiny.

*First*, it is undisputed that: (1) Petitioner sent to Respondent an extremely detailed letter highlighting the primary issues addressed in the Motion, Brannen Decl. Ex. 8; *cf.* Opp. at 3-4; (2) Petitioner and Respondent duly met and conferred about such issues by way of ***three separate phone conferences spanning several hours over the course of two days*** in May 2014, Mot. at 4; *cf.* Opp. at 3; (3) during those meet-and-confer efforts, Petitioner clearly stated its final positions with respect to the primary issues addressed in the Motion, Brannen Decl. Ex. 9; *cf.* Opp. at 3; (4) Petitioner then provided a very detailed summary of the meet-and-confer, Respondent's positions, and the outstanding discovery issues in its letter dated June 18, 2014, Brannen Decl. Ex. 9, *cf.* Opp. at 3; (5) Respondent did not respond to such letter or dispute Petitioner's summary; (6) Respondent made a small production of documents on June 11, 2014, which production reflects and confirms Respondent's stated intention to produce only a subset of the requested documents; and (7) Respondent never supplemented its discovery responses, contrary to its stated commitment to do so.

*Second*, the nature of the arguments in the Opposition themselves illustrate the futility of further meet-and-confer on the discovery at issue. Respondent gives no ground on any substantive issues whatsoever. Further meet-and-confer efforts by Petitioner would have served no purpose except to run out the discovery clock.

Accordingly (and not surprisingly), the facts here are readily distinguishable from the *Hot Tamale* case relied upon by Respondent. *See* Opp. at 5 (citing *Hot Tamale Mama . . . and More, LLC v. SF Invs., Inc.*, 110 USPQ2d 1080 (TTAB 2014)). In *Hot Tamale* there was only a single communication regarding the discovery at issue, whereas here it is undisputed that there were at least five communications (whether via detailed letter or verbal meet-and-confer) by Petitioner that put Respondent on notice of ongoing discovery disputes. Moreover, and most importantly, in *Hot Tamale*, the responding party *did not* – unlike here – explicitly refuse to provide the discovery requested multiple times, but instead stated that

“I’ll check with the client and get back to you on a time frame for response.” *Hot Tamale*, 110 USPQ2d at 1082 (denying motion to compel where limited communications between parties “did not suggest disagreement . . . or recalcitrance or uncooperativeness on the part of the opposer”).

## **II. DISCOVERY OF RESPONDENT’S USE OF OTHER 3DS MARKS IS RELEVANT TO THE LIKELIHOOD OF CONFUSION ANALYSIS AND TO RESPONDENT’S DEFENSES**

Respondent has refused to provide discovery with respect to its use of other “3DS” marks, even though such discovery is relevant to Petitioner’s claim of likelihood of confusion and Respondent’s defenses. Mot. at 5-9. Respondent again denies none of this, and its arguments miss the mark.

Respondent recites the principle that “A party need not provide discovery with respect to those of its marks . . . that are not involved in the proceeding and have no relevance thereto.” Opp. at 6 (quoting TBMP § 414(11)). But Respondent omits the very next sentence in the TBMP, which distills the very reason why Petitioner is entitled to discovery regarding “3DS”: “However, the information that a party sells the same goods or services as the propounding party, even if under a different mark, is relevant to the issue of likelihood of confusion for purposes of establishing the relationship between the goods or services of the parties.” TBMP § 414(11). This is *exactly* why discovery of Respondent’s use of other “3DS” marks is relevant to this proceeding: Respondent’s use of “3DS” provides important information and evidence regarding the full scope of goods and services promoted by Respondent, a crucial factor in the likelihood of confusion analysis. *See id.*

Furthermore, Respondent has pleaded several affirmative defenses that may rely on Respondent’s use of “3DS,” including waiver, estoppel, unclean hands, and acquiescence. For this reason alone, Petitioner is entitled to discovery on Respondent’s use of “3DS.” Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense . . . . Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.”). Moreover, during the meet-and-confers, Respondent explicitly refused to limit its case to the design mark in the disputed registration. This means, for example, that Respondent may intend to argue that it has been using “3DS” (as an abbreviation of its business name) for years – perhaps as early as 1986, when Respondent was incorporated – which could

have important ramifications for questions of priority, waiver, estoppel, and acquiescence, among other issues and defenses. In short, Respondent has indicated that it may point to its use of 3DS generally as part of its defense; it cannot now protest that such information is not relevant, and it certainly cannot claim a right to use such information in its defense while refusing to provide Petitioner with discovery pertaining to that information.<sup>3</sup> Instead of addressing these clear and well-accepted grounds that establish the relevancy of discovery pertaining to Respondent's use of "3DS," Respondent essentially argues that even if such information is relevant, Petitioner should be satisfied with whatever it may glean from Respondent's website and the limited production of documents made by Respondent. *See* Opp. at 7. This argument is untenable and plainly inconsistent with Respondent's discovery obligations under the federal rules and the TBMP.

Respondent's citation to *Volkswagenwerk Aktiengesellschaft v. Thermo-Chem Corp.*, 176 USPQ 493 (TTAB 1973) is misplaced. In that case, Volkswagenwerk sought to oppose Thermo-Chem's application for the mark BUG COOLER, based on Volkswagenwerk's rights in the mark BUG; the Board ruled that Thermo-Chem did not have to answer an interrogatory that asked Thermo-Chem to name marks ***other than BUG or BUG COOLER*** that it had used with the sale of its products and services.

*Volkswagenwerk*, 176 USPQ at 493 (emphasis added). In other words, there does not appear to be a dispute that discovery regarding BUG was appropriate, even though the mark that was the subject of the opposed application was BUG COOLER.<sup>4</sup> Similarly here, 3DS is relevant to a cancellation proceeding involving 3DS (and design).

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<sup>3</sup> Indeed, several of the discovery requests that Respondent has propounded on Petitioner specifically ask for documents and information dated prior to January 22, 2001, the date of first use specified in Petitioner's Registration No. 2733869 for 3DS MAX. By Respondent's own admission, it did not adopt the design mark in the disputed registration until 2011. Pre-2001 documents have little probative value in this proceeding unless Respondent intends to dispute the issue of priority based on its use of other 3DS marks.

<sup>4</sup> Respondent also cited to TBMP § 102.01 for the proposition that the Board is empowered to determine only the right to register. Petitioner has not disputed this tenet and has in no way requested relief beyond cancellation of the subject mark. This has no bearing on the relevance of the Respondent's use of 3DS marks to this cancellation proceeding. Respondent's citation to *FirstHealth of the Carolinas Inc. v. CareFirst of Maryland Inc.*, 81 USPQ2d 1919 (Fed. Cir. 2007) is equally mystifying: that case involved questions of the preclusive effect of the Board's rulings; the Board simply pointed out that its earlier decisions regarding registration do not bar a party from use of a mark, which is not disputed here.

Respondent further confuses the issue by incorrectly asserting that Petitioner seeks discovery pertaining to marks beyond those containing “3DS.” In particular, Respondent argues that even while it seeks its own discovery on other “3DS” marks, “[t]hose inquiries do not magically make Respondent’s other marks – whether or not they contain the term ‘3DS’ – relevant.” Opp. at 7. This logic is fundamentally flawed in two respects: (1) the Motion seeks discovery pertaining *only* to marks containing “3DS,” and not marks “whether or not they contain the term ‘3Ds’”; and (2) the Opposition itself contends that Respondent is entitled to discovery of Petitioner’s use of “3DS” marks generally for purposes of likelihood of confusion analysis. *Id.* Respondent offers no substantive explanation, let alone authority, bearing on why Petitioner should not receive the same discovery for likelihood of confusion analysis. *See* TBMP § 402.01(2) (“[A] party ordinarily will not be heard to contend that a request for discovery is proper when propounded by the party itself but improper when propounded by its adversary.”).

Respondent’s assertion that it uses “the registered 3DS & Design mark in connection with every product and service it currently provides,” Opp. at 7, in no way relieves it of undertaking and fulfilling its discovery obligations. Moreover, while Respondent also attempts to invoke the documents it has already produced, it does not deny that it has withheld this discovery and, as explained below, Respondent has yet to make a valid and substantive document production in this case.

### **III. RESPONDENT’S DOCUMENT PRODUCTION IS INSUFFICIENT**

As set forth in the opening brief, Respondent has made a single production of 507 documents that – rather than a genuine and thorough collection of responsive documents – appears to have been largely handpicked by its attorneys. Mot. at 9. In response, the Opposition is conspicuously silent. Respondent does not deny that its production was attorney-generated, nor does it assert that it has thoroughly searched its records for responsive documents as is required under the TBMP. Opp. at 8. Instead, Respondent again seeks to misdirect the Board by claiming that all of the documents that it has produced are responsive. *Id.* However, this is entirely irrelevant as to whether Respondent has undertaken a thorough

search of its records and produced *all* responsive documents – which Respondent does not and cannot claim.<sup>5</sup>

Respondent's references to its belated attempt at a privilege log, which was served on Petitioner on August 25, 2014, only reinforce the need for Board intervention in this case. Respondent's "privilege log" consists of only 9 entries, two of which appear to be attachments to other entries, and all but one of which dates from March 2011.<sup>6</sup> *See* Supp. Brannen Decl. Ex. 15. It is inconceivable that there are only 7 responsive privileged emails, especially given the relevant time frame, which potentially dates as far back as 1986, when it appears that Respondent was incorporated as 3D Systems, Inc. (the apparent basis for the abbreviation "3DS").<sup>7</sup> Respondent's "privilege log" flies in the face of its obligation to conduct a thorough, good-faith search for responsive documents.

#### **IV. OTHER DISPUTED DISCOVERY ISSUES**

Finally, Respondent's refusal to provide information and documents in several additional categories also founders under applicable law and fact. Mot. at 10-12. In particular, Respondent has refused to provide the following: 1) marketing and business plans; 2) information and documents pertaining to its selection of the mark in the Registration; 3) the quality of goods or services offered under the 3DS mark; 4) information regarding how and when it first became aware of Petitioner and its use of

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<sup>5</sup> Respondent claims that had Petitioner merely called Respondent, Respondent would have explained that it had failed to produce documents outside the 2011-2013 timespan because it did not commence use of the 3DS & Design mark until 2011. This response only underscores the necessity of Board intervention: such a phone call would have solved nothing, as it would have only highlighted the continuing and unresolvable dispute regarding whether discovery should be limited only to documents and information specifically discussing the 3DS & Design mark.

<sup>6</sup> Tellingly, while Respondent attached virtually all written correspondence between the parties to its Opposition, it *did not* attach this privilege log, even while it relies upon it for the proposition that "many" of the issues presented by the Motion could have been resolved via further meet-and-confer. Opp. at 6. Moreover, the Opposition does not even claim that its privilege log reflects all of the responsive privileged documents in its position. Accordingly, and while it is true that Petitioner did not raise the issue of the privilege log prior to bringing the Motion, the nature of the privilege log provided demonstrates the judicial economy of raising the issue with this Motion.

<sup>7</sup> To provide one illustrative example: After meet-and-confer efforts, Respondent agreed to produce "all documents relating to use of the 3DS mark by Autodesk." Brannen Decl. Ex. 9, at 5. It defies belief that Respondent never communicated to its counsel regarding Autodesk's use of the 3DS mark, as would be indicated by the lack of any such communications in Respondent's privilege log.



the 3DS mark; and 5) internal communications concerning the mark 3DS. *Id.* The Opposition’s arguments with respect to each fail, and are addressed in turn.

*First*, Respondent argues that it should not be required to produce relevant promotional, marketing, and business plans because “Petitioner has alleged in its Petition for Cancellation that Respondent is a direct competitor, and Respondent has produced ample documents . . . showing the range and scope of products and services . . . .” Opp. at 9. In other words, Petitioner is again arguing that it should be excused from its discovery obligations because it has produced documents that it deems sufficient for Petitioner.<sup>8</sup> Respondent further states that it is “unclear as to what further light” prospective plans would shed on likelihood of confusion analysis, “or that the value to Petitioner would outweigh Respondent’s acute intent in protecting the confidentiality and trade secret nature of its future business plans.” *Id.* Respondent’s lack of clarity and reluctance to disclose however, are not valid reasons to withhold relevant discovery in direct violation of the TBMP Discovery Guidelines. *See* TBMP § 414(8) (“A party’s plans for expansion may be discoverable under protective order.”).<sup>9</sup> Just as documents showing past and current marketing are relevant to the likelihood of confusion analysis (which, by definition, looks not just at a snapshot of the present, but at what is *likely* to happen in the future), so too are plans pertaining to the marks and goods and services in question. Contrary to Respondent’s suggestion, the TBMP specifically states that “*a party’s*” plans for expansion are discoverable; the rule is not limited to an opposer or a petitioner. TBMP § 414(8) (emphasis added).

*Second*, with respect to how Respondent selected the mark in the Registration, Respondent argues that it need not provide such information because its stated reasons – set forth in an interrogatory response presumably drafted by attorneys – “are so clearly free from malevolent intent” that “other marks considered by Respondent are not relevant or necessary for the adjudication of issues presented in this

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<sup>8</sup> It should not require explanation that Petitioner cannot be expected to rely solely on its allegations in the Petition or speculation, but must have evidentiary support, which it is entitled to compile via discovery.

<sup>9</sup> A protective order binding the parties is in place, and Respondent provides no substantive reason or authority supporting a premise that it will not sufficiently protect its confidential information.

proceeding.” Opp. at 10. Not surprisingly, Respondent does not point to any authority that supports that its own “say-so” (or that of its counsel) of good intent is sufficient to discharge its duty to produce relevant discovery. Nor does Respondent offer a rebuttal to any of the various authorities cited in the opening brief that show that it is in fact required to produce such discovery. *See* Mot. at 10-11.

*Third*, with respect to Interrogatory No. 17, pertaining to the quality of 3DS products or services, Respondent has provided no legal authority whatsoever to rebut the claim that the quality of its products and services is relevant.<sup>10</sup> And its characterization of what was agreed at the meet-and-confers is belied by the summary provided by Petitioner’s counsel in its June 18, 2014 letter: “In addition to the remaining dispute over the definition of the term ‘3DS Product or Services,’ you asserted that the issue of quality of the 3DS Products or Services is irrelevant. You refused to supplement to provide a substantive response to this interrogatory.” Brannen Decl. Ex. 9, at 3. As previously noted, Respondent never replied to this letter. If any part of this letter inaccurately summarized the results of the meet-and-confers and/or Respondent’s position on any of the disputed issues, Respondent had ample opportunity to clarify. It did not do so. It also did not provide revised discovery responses, as it had committed to do, which would have allowed it to definitively state its position in its own words.

*Fourth*, and similarly, with respect to Interrogatory No. 27, Respondent’s characterization of the outcome of the meet-and-confers is not supported by Petitioner’s June 18, 2014 summary, which clearly summarizes as follows: “We clarified that ‘Petitioner or its use of the 3DS mark’ means Autodesk and any word, name, symbol or device or other designation of origin incorporating the letter string 3DS, or its phonetic equivalent as well as any domain name incorporating the letter string 3DS. Despite this clarification, you have refused to supplement your client’s response.” *Id.*, Ex. 9 at 4. Respondent cannot

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<sup>10</sup> As Petitioner indicated in its brief, the quality of Respondent’s goods and services is a fact probative of the effect of Respondent’s use of the 3DS mark. To name one example, if Respondent’s goods and services are of sufficiently high quality, there may not be evidence of actual confusion (a *Du Pont* factor) because consumers are less likely to complain. *In re Ass’n of the U.S. Army*, 85 USPQ2d 1264, 1273 n.9 (TTAB 2007). More generally, it seems to be a common sense matter that quality is one aspect or characteristic by which to compare two parties’ goods and services to determine their relatedness.

now complain that Petitioner did not hound it for an answer when it was clear that Petitioner understood Respondent as refusing to provide a response.

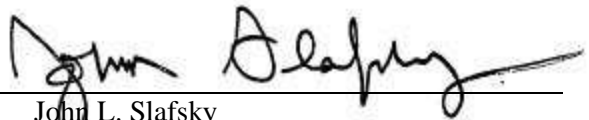
And finally, with respect to Request for Production No. 25, Respondent concedes that it is refusing to produce any documents because, in its view, they *may* be protected by work-product privilege. However, it does not even claim to have searched for or reviewed such documents to ascertain whether they are indeed protected by work-product privilege. And, even if that were the case, such documents would need to be disclosed in a privilege log, which they do not appear to be, given the nature of the “privilege log” produced as described above.

### CONCLUSION

For the reasons set forth above and in the opening brief, Petitioner respectfully reiterates its request that the Board grant this Motion in entirety, and reset and extend pre-trial deadlines by 60 days so that Respondent can promptly make a supplemental document production and supplement its interrogatory responses and so that Petitioner may then conduct pre-trial depositions with the benefit of such discovery.

Dated: September 16, 2014

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By: 

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AUTODESK, INC.,

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AUTODESK, INC.,	)	
	)	
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	)	
v.	)	
	)	
3D SYSTEMS, INC.,	)	
	)	
Respondent.	)	
	)	
	)	

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**SUPPLEMENTAL DECLARATION OF STEPHANIE S. BRANNEN IN SUPPORT OF  
PETITIONER'S MOTION TO COMPEL DISCOVERY**

I, Stephanie S. Brannen, declare:

1. I am an associate at Wilson Sonsini Goodrich & Rosati, counsel for Petitioner Autodesk, Inc. ("Petitioner") in this matter. I have personal knowledge of the facts set forth in this supplemental declaration, and if called as a witness I could competently testify to them.

2. Attached hereto as Exhibit 15 is a true and correct copy of Respondent 3D Systems, Inc.'s privilege log served on Petitioner on August 25, 2014.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Palo Alto, California, on September 16, 2014.

Date: September 16, 2014

  
Stephanie S. Brannen

## **Exhibit 15**

**Privilege Log**  
**3D Systems, Inc.**  
**Cancellation No. 92056509**

Date	Email From / Custodian	Email To	Email Subject / Filename	Description	Basis for Privilege
3/17/11	Bob Grace	Cathy Lewis, Keith Roberson	FW: Proposed logo review	Email string seeking advice of counsel re clearance search	Privileged: Attorney-Client
3/17/11			3DS Logo March 15 2010.pptx	attachment to email string seeking advice of counsel re clearance search	Privileged: Attorney-Client
3/30/11	Brian M. Davis, Esq.	Keith Roberson	3DS Logo Search Report	Email from Counsel re clearance search	Privileged: Attorney-Client; Attorney Work Product
3/30/11			3DS Logo Search Report.DOC	Memo from Counsel re clearance search attached to email	Privileged: Attorney-Client; Attorney Work Product
3/30/11	Keith Roberson	Brian M. Davis, Esq.	RE: 3DS Logo Search Report	Email to Counsel re clearance search	Privileged: Attorney-Client; Attorney Work Product
3/31/11	Cathy Lewis	Bob Grace; Keith Roberson	RE: 3DS Logo Search Report	Email string seeking/reflecting advice of Counsel re clearance search	Privileged: Attorney-Client; Attorney Work Product
3/31/11	Cathy Lewis	Keith Roberson; Bob Grace	FW: 3DS Logo Search Report	Email string seeking/reflecting advice of Counsel re clearance search	Privileged: Attorney-Client; Attorney Work Product
8/26/11	Keith Roberson	Cathy Lewis	RE: Follow up re: trademark questions	Email string seeking/reflecting advice of Counsel re trademark applications	Privileged: Attorney-Client
3/21/11	Keith Roberson	Brian M. Davis, Esq.	Trademark follow up	Email to Counsel seeking advice re new logo	Privileged: Attorney-Client

**CERTIFICATE OF SERVICE BY MAIL**

I, Elvira Minjarez, declare:

I am employed in Santa Clara County. I am over the age of 18 years and not a party to the within action. My business address is Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, California, 94304-1050.

I am readily familiar with Wilson Sonsini Goodrich & Rosati's practice for collection and processing of correspondence with the United States Postal Service. In the ordinary course of business, correspondence would be deposited with the United States Postal Service on this date.

On this date, I caused to be personally served:

**PETITIONER'S REPLY IN SUPPORT OF MOTION TO COMPEL**

**SUPPLEMENTAL DECLARATION OF STEPHANIE S. BRANNEN IN  
SUPPORT OF PETITIONER'S MOTION TO COMPEL DISCOVERY**

on the person(s) listed below by placing the document(s) described above in an envelope addressed as indicated below, which I sealed. I placed the envelope(s) for collection and mailing with the United States Postal Service on this day, following ordinary business practices at Wilson Sonsini Goodrich & Rosati.

Jason M. Sneed  
SNEED PLLC  
610 Jetton St., Suite 120-107  
Davidson, North Carolina 28036

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Palo Alto, California on September 16, 2014.

  
Elvira Minjarez